

**Minutes of
S.C. Board of Health and Environmental Control
Meeting**

June 12, 2003

The S.C. Board of Health and Environmental Control met on Thursday, June 12, 2003, at 10:00 a.m. in the S.C. Board of Health and Environmental Control BoardRoom, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)

The following members were in attendance:

Elizabeth M. Hagood, Chairman
Member-at-large

Mark B. Kent, Vice-Chairman
Greenville

Howard L. Brilliant, Secretary
Charleston

Carl L. Brazell
Columbia

L. Michael Blackmon
Lancaster

Lawrence R. Chewning, Jr., D.M.D.
Florence

Also in attendance were Commissioner C. Earl Hunter and guests. (Attachment 0-2)

Mr. Kent gave the invocation.

Ms. Hagood called the meeting to order and welcomed everyone.

Chairman Hagood stated, notice of this meeting has been provided to all persons, organizations and news media, which have requested notification as required by section 30-4-80(e) of the South Carolina Code of Laws.

Commissioner Hunter presented Mr. Brad Wyche and Dr. Larry Chewning with resolutions from the Board. Mr. Kent also presented Mr. Wyche with a plaque recognizing him for his service as Chairman of the Board.

Item 1: Consideration of April 10, 2003, meeting minutes - For Approval (Attachment 1-1)

Mr. Kent moved, seconded by Mr. Blackmon, to approve the minutes of the April 10, 2003, meeting. Approved

Item 2: Monthly Award for Excellence recipients for May and June 2003 - For Information (Attachment 2-1)

The following employees were recognized:

May 2003

Commissioner's Office - Janet Dowdy;
Environmental Quality Control - Sharon Burnett;
Health Regulation - Victor Grimes;
Health Services - Audrey Oakes;
Appalachia I Health District - Oconee County Home Health;
Catawba Health District - Mary Lightner;
Edisto Health District - Renee Nelson;
Low Country Health District - Betsy Cares;
Lower Savannah Health District - Jackie Sizemore;
Palmetto Health District - Pam Pitts;
Pee Dee Health District - Betty Jo Turner;
Trident Health District - Virginia Darling Stone;
Upper Savannah Health District - Dale Bagwell;
Wateree Health District - Hattie Benjamin.

June 2003

Commissioner's Office - Special Certification Division, Vital Records/Rena' Geiger, Tracey Bynoe, Anita Farmer, Brenda Muhammad, Pepi Griffin, Angela Nelson, Lana Thomas, Betty Moore;
Environmental Quality Control - Wade Cantrell;
Health Regulation - Rosiland Davis;
Health Services - Roberta Bartholdi;
Appalachia I Health District - Healthy Lifestyles Task Force/Mary Wilson, Mitzi Melton;
Appalachia II Health District - Doreen Reeves;
Catawba Health District - Chester County Health Department Staff;
Edisto Health District - Patricia Yunis;
Low Country Health District - Colleton County Home Health Team/Louise Edwards, Sherry Baker, Karen Craven, Shirley Pontoon, Erika Bostic, Betsy Cares, Patti Hayden, Patsy Avant;
Lower Savannah Health District - Veleta Rudnick;
Palmetto Health District - Kathy Walker;
Pee Dee Health District - Ronnie Herring;
Trident Health District - Heather Bausell;
Upper Savannah Health District - Kim Crawford, Kim Dean;

Waccamaw Health District - Debbie Murrell;
Wateree Health District - Ralph Bleasdale.

Chairman Hagood congratulated everyone on behalf of the Board.

Item 3: Request for Approval of 2003 South Carolina Health Plan - For Approval
(Attachment 3-1)

Mr. Leon Frishman, Deputy Commissioner for Health Regulations, introduced, Gerald Wilson, MD, Chairman, State Health Plan Committee. Dr. Wilson reviewed all the changes proposed to the State Health Plan.

Mr. Kent moved, seconded by Dr. Chewning, to approve the Plan for use in the Certificate of Need Program and that all applications received after June 12, 2003, be reviewed under this Plan. Approved

Item 4: PUBLIC HEARING AND REQUEST FOR FINAL APPROVAL - Proposed Amendment of R.61-62, Air Pollution Control Regulations and Standards, and the South Carolina State Implementation Plan (SIP), State Register Document No. 2840, Exempt from Legislative Review (Attachment 4-1)

Ms. Heather Preston, Bureau of Air Quality, presented this item to the Board. The Department proposes to amend Regulation 61-62, Air Pollution Control Regulations and Standards, to make corrections and clarifications and to incorporate new Federal requirements into the existing regulations. The proposed amendments are necessary to maintain consistency with Federal rules and will not require legislative review.

A public hearing was conducted. (Attachment 4-2)

Mr. Kent moved, seconded by Dr. Chewning, to find for the need and reasonableness of the proposed regulation and approve it for publication as final in the State Register. Approved

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 4-3)

Item 5: PUBLIC HEARING AND REQUEST FOR FINAL APPROVAL - Proposed Amendment of R.61-79, Hazardous Waste Management, Federally Mandated Regulations, State Register Document No. 2834, Exempt from Legislative Review (Attachment 5-1)

Ms. Shellie Sherritt, Bureau of Land and Waste Management, presented this item to the Board. The federal equivalent of R.61-79 is amended periodically. The State is required to adopt certain federal amendments to maintain authorization by the United States Environmental Protection Agency for the State Hazardous Waste Management Program.

A public hearing was conducted. (Attachment 5-2)

Mr. Kent moved, seconded by Mr. Blackmon, to find for the need and reasonableness of the proposed regulation and approve it for publication as final in the State Register. Approved

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 5-3)

Item 6: CONSENT ORDER OF SETTLEMENT AND DISMISSAL - Gary L. Berger vs. South Carolina Department of Health and Environmental Control and Wal-Mart Store #3222, Docket No. 02-ALJ-07-0467-CC (Attachment 6-1)

Mr. Carl Roberts, General Counsel, introduced the case. Mr. Sam Finklea presented the Order of Settlement and Dismissal signed by all parties. Mr. Kristopher Pickler, Attorney for Wal-Mart, was present but didn't speak.

Mr. Kent moved, seconded by Dr. Chewning, to adopt the Consent Order of Settlement and Dismissal ordering the Department to issue the Permits, as modified. Approved

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 6-2)

Item 7: CONTESTED CASE - South Carolina Department of Health and Environmental control vs. Nutt, Docket No. 00-ALJ-07-0239-CC (Attachment 7-1)

Mr. Roberts introduced the case. Mr. Finklea represented the Department.

Mr. Kent moved, seconded by Dr. Chewning, to reverse so much of the Final Order and Decision as is set forth in the last paragraph of Section 5 of the Final Order and affirm the remainder in result only. Approved

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 7-3)

Item 8: CONTESTED CASE - Paris Mountain Utilities, Inc., Joe W. Hiller and David N. Hiller vs. South Carolina Department of Health and Environmental Control, Docket No. 01-ALJ-07-0462-CC (Attachment 8-1)

Ms. Jackie Dickman, Deputy General Counsel, introduced the case. Mr. Mason Summers represented the Department. Mr. Randall Hiller represented Paris Mountain Utilities, Joe W. Hiller and David N. Hiller.

After the Board heard oral arguments from both parties, Mr. Kent moved, seconded by Dr. Brilliant, for an Executive Session for the purpose of receiving legal advice. Approved

While in Executive Session, the Board took no votes or formal action.

Mr. Kent made a motion, seconded by Dr. Chewning, that the Board hold that the Notice of Appeal filed by Paris Mountain Utilities and the Hillers does not state specific grounds for appeal as required by Reg.61-72 § 801, and their appeal is therefore inadequate. Approved.

Mr. Kent moved, seconded by Dr. Chewning, to affirm the decision of the Administrative Law Judge, with the exception of reinstating both the \$1,129,786.01 civil penalty and the corrective actions imposed by the Department in its administrative order. Approved

A verbatim transcript of these proceedings is included as part of the permanent record. (Attachment 9-2)

Item 9: Proposed Amendments of R.61-58, State Primary Drinking Water Regulations, Legislative Review is not required - For Initial Approval (Attachment 9-1)

Ms. Valerie Betterton, Bureau of Water, presented this item to the Board. The Department is proposing to amend R.61-58 as required by Section 1413 of SDWA. This will allow the Department to retain primary enforcement responsibility for the public drinking water supervision program.

Mr. Kent moved, seconded by Mr. Brazell, to grant initial approval to publish a Notice of Proposed Regulation in the State Register to provide an opportunity for public comment and to allow staff to proceed with a public hearing before the Board. Approved

Item 10: Administrative and Consent Orders issued by Office of Environmental Quality Control (March 1, 2003 through April 30, 2003) - For Information (Attachment 10-1)

Mr. Bob King, Assistant Deputy Commissioner for Environmental Quality Control, stated sixty-one (61) orders had been issued with penalties of \$288,967.

After discussion, *the Board accepted this item as information.*

Item 11: Administrative Orders, Consent Orders, and Sanction Letters issued by Health Regulation (HR)(March 16, 2003 through May 15, 2003) - For Information (Attachment 11-1)

Mr. Jerry Paul, Bureau of Health Facilities Regulation, stated two (2) letters had been issued with penalties of \$2,500.

The Board accepted this item as information.

ITEM 12: Orders issued by Office of Ocean and Coastal Resource Management (March 16, 2003 through May 15, 2003) - For Information (Attachment 12-1)

Mr. Chris Brooks, Deputy Commissioner for Ocean and Coastal Resource Management, stated three (3) orders had been issued with penalties of \$850.

The Board accepted this item as information.

ITEM 13: Agency Affairs

a. Lake City Health Center - Financial Assistance from the FY 2003 Commissioner's State Discretionary Fund - For Approval (Attachment 13a-1)

Commissioner Hunter stated the Department was asking for approval to commit \$6,000 in FY2003 funds to Lake City Health Center to provide financial assistance to purchase a phone system and wiring for the new facility being built.

Mr. Kent moved, seconded by Chewning, to approve the expenditure of \$6,000 to provide the financial assistance requested. Approved

b. Oral Cancer Advisory Team - For Information

Ms. Virginia Andrews, Division of Bio-Statistics, presented the Board with an overview of the Oral Cancer Advisory Team. (Attachment 13b-1)

c. Oral Health Initiatives - For Information

Dr. Raymond Lala, Division of State Oral Health, gave a brief presentation of Department Oral Health Initiatives.

Bureau of Water representatives, David Baize and Rheta Geddings, gave the Board an update on drought issues. (Attachment 13-1) Commissioner Hunter recognized staff who received Palmetto Gold Awards for excellence in nursing. (Attachment 13-2)

ITEM: 14: Legal Update - For Information

Mr. Roberts updated the Board on legal issues.

ITEM: 15: Legislative Briefing - For Information

Ms. Wanda Crotwell, Assistant to the Commissioner for External Affairs, gave a summary of activities involving the Department during the 2003 Legislative Session. (Attachment 15-1)

Dr. Chewning moved, seconded by Mr. Kent, to adjourn. Approved.

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,

Howard L. Brilliant, MD
Secretary of the Board

Minutes approved this 12th day of June 2003.

ATTEST:

Elizabeth M. Hagood
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 April 10, 2003, Board Meeting minutes
- 2-1 Monthly Award for Excellence Recipients for May and June 2003
- 3-1 2003 South Carolina Health Plan
- 4-1 **Public Hearing** - Proposed Amendment of R.61-62, Air Pollution Control Regulations
- 4-2 Sign-in sheet
- 4-3 Verbatim transcript
- 5-1 **Public Hearing** - Proposed Amendment of R.61-79, Hazardous Waste Management
- 5-2 Sign-in sheet
- 5-3 Verbatim transcript
- 6-1 **Consent Order** of Settlement and Dismissal - Gary L. Berger vs. SCDHEC and Wal-Mart
- 6-2 Verbatim transcript
- 7-1 **Contested Case** - SCDHEC vs. Nutt
- 7-2 Verbatim transcript
- 8-1 **Contested Case** - Paris Mountain Utilities, et al. vs. SCDHEC
- 8-2 Verbatim transcript
- 9-1 Proposed Amendment of R.61-58, State Primary Drinking Water Regulations
- 10-1 Administrative and Consent Orders issued by EQC
- 11-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 12-1 Orders issued by OCRM
- 13a-1 Financial Assistance from 2003 Commissioner's State Discretionary Fund for Lake City Health Center
- 13b-1 Oral Cancer Advisory Team
- 13-1 Draught Issue Update
- 13-2 Palmetto Gold Recipients
- 15-1 Legislative Briefing